

**FINDINGS OF FACT and FINAL ORDER
TYPE I REVIEW**

DATE: August 14, 2023

FILE NO.: 23-022 FSH/TREE

PROJECT NAME: Tree Removal by City for Manhole Repair

APPLICANT: City of Sandy Public Works Department

OWNER: City of Sandy

LOCATION: approximately 150 feet south of the intersection of Dubarko Road and Bluff Road

TAX IDENTIFICATION: Tax Map 24E14, Tax Lot 01200

PROPOSAL: Remove one (1) hazard tree within the Flood and Slope Hazard Overlay in compliance with the requirements of Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, and Chapter 17.102, Urban Forestry.

EXHIBITS:

Applicant's Submittals

- A. Land Use Application
- B. Map and Photo
- C. Email from Thomas Fisher

FINDINGS OF FACT:

1. The goals and policies of the Sandy Comprehensive Plan are not directly applicable to this application because relevant code sections do not cite specific policies as criteria for evaluating the proposal.
2. The site has a Plan Map designation of Parks and Open Space, and a Zoning Map designation of POS, Parks and Open Space, with the Flood and Slope Hazard (FSH) Overlay.
3. Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, applies to development within the mapped FSH Overlay and Chapter 17.102, Urban Forestry, applies to properties within the Sandy Urban Growth Boundary that are greater than one acre in area (including contiguous parcels under the same ownership). The proposed tree removal is within the mapped FSH overlay adjacent to Tickle Creek. The contiguously owned properties total over one acre. Therefore, Chapters 17.60 and 17.102 apply.

17.60 – Flood and Slope Hazard (FSH) Overlay District

4. The one (1) hazard tree proposed for removal as part of this application is located within the Flood and Slope Hazard (FSH) Overlay District; therefore, a FSH review is required. Removal of up to two (2) trees 6-inches or greater DBH in a calendar year can be reviewed under the Type I FSH procedure. In addition, removal of dead vegetation that is hazardous to the public can also be reviewed under the Type I FSH procedure.
5. Section 17.60.00 specifies the intent of the Flood and Slope Hazard (FSH) Overlay District, which is to promote the public health, safety, and general welfare by minimizing public and private adverse impacts from flooding, erosion, landslides, or degradation of water quality consistent with Statewide Planning Goal 6 (Air, Land, and Water Resources Quality) and Goal 7 (Areas Subject to Natural Disasters and Hazards) and the Sandy Comprehensive Plan (SCP). The removal of the one tree can be mitigated with planting of new trees.
6. Section 17.60.20 contains permitted uses in the FSH overlay district and Section 17.60.40 contains the FSH review procedures. As previously discussed, removal of up to two (2) trees and removal of dead vegetation from the FSH overlay area are both processed under a Type I FSH procedure. **Future vegetation removal shall require separate permit review and compliance with Chapter 17.60.**
7. Section 17.60.50 contains requirements for special reports, including a hydrology and soils report, a grading plan, and a native vegetation report. The Director determined that no reports are needed with this application.
8. Section 17.60.60 contains approval standards and conditions for development in the restricted development areas of the FSH overlay district. This permit is just for the removal of one tree, and does not include development in the FSH, so no evaluation of the approval standards in Section 17.60.60 (A) is warranted.

17.102 – Urban Forestry

9. Section 17.102.20 contains information on the applicability of Urban Forestry regulations Per Section 17.102.20(A), “No person shall cut, harvest, or remove trees 11 inches DBH or greater without first obtaining a permit and demonstrating compliance with this chapter”; however, “Tree removal to prevent an imminent threat to public health or safety, or prevent imminent threat to public or private property, or prevent an imminent threat of serious environmental degradation” is exempt provided a Type I tree removal permit is applied for within seven days following the date of tree removal. The tree was not removed ahead of the land use application. **Future tree removal from the subject property shall require additional permit approvals.**
10. Thomas Fisher stated that the cottonwood tree needs to be removed as it is damaging a manhole and is causing ground water to infiltrate into the sanitary sewer system. Mr. Fisher stated, “Public Works is requesting to remove a tree adjacent to a sewer manhole. The roots from this tree are damaging the manhole allowing ground water to flow into our sewer system. We have a contractor that needs to remove the roots so they can grout and seal up the

manhole.” This manhole grouting and repair is part of the City of Sandy’s initiative to reduce unintended flows into the sanitary sewer system.

11. Per Section 17.102.60, removal of a hazard tree requires replanting at a minimum 2 to 1 ratio. Thus, the removal of the one (1) hazard tree requires planting a minimum of two (2) mitigation trees. **The applicant shall submit a mitigation tree plan detailing the proposed location of the two (2) required mitigation trees for staff review and approval.**
12. Section 17.102.60 specifies that all areas with exposed soils resulting from tree removal shall be replanted. **No heavy machinery shall be driven into the FSH Overlay area nor within critical root zones of existing trees that will remain.**

DECISION:

This hazard tree removal permit application for removal of one (1) hazard tree approximately 150 feet south of the intersection of Dubarko Road and Bluff Road that is damaging a sanitary sewer manhole is hereby **approved** as modified by the conditions listed below.

CONDITIONS OF APPROVAL:

- A. Tree removal is limited to the one (1) hazardous cottonwood tree that is damaging the sanitary sewer manhole as identified in Exhibit B.**
- B. The applicant shall plant two (2) mitigation trees with the following conditions:**
 1. Submit information on the proposed species, size, and location of the two (2) mitigation trees for staff review and approval.
 2. Aerate soils prior to planting the mitigation trees.
 3. The mitigation trees shall be planted within one (1) year of the removal of the hazardous cottonwood tree.
 4. The mitigation trees shall be a minimum of 5 feet in height at time of planting or at least 1.5 inches caliper measured at six inches above the ground and planted per the City of Sandy standard planting detail. If the mitigation trees are staked, the applicant shall use loosely tied twine to tie the trees to the stake and the twine shall be removed after one year from being planted.
- C. General Conditions of Approval**
 1. No heavy machinery shall be driven into the FSH Overlay area nor within critical root zones of existing trees that will remain.
 2. Future tree removal from the subject property and/or vegetation removal or other development activity within the FSH overlay shall require additional permit approvals.



Kelly O'Neill Jr.
Development Services Director

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the Planning Commission by an affected party by filing an appeal with the Director within twelve (12) days of notice of the decision. The notice of appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain at least the following:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.28.50;
5. Payment of required filing fees. Payment of required filing fees is jurisdictional and must accompany an appeal at the time it is filed;
6. The name and mailing address of the person or entity appealing the decision; and
7. List and two sets of mailing labels for property owners within 300 feet of the subject property (for appeal of a Type I decision), 500 feet of the subject property for appeal of a Type II, III, or IV decision, or 1,000 feet for appeal of an annexation request. The property owner list and labels shall be obtained from a Title Company no more than seven days prior to submitting the appeal.